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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,933	10/01/2003	Richard H. Boivie	YOR920030398US1 (8728-647)	9603
46/669 7590 12/12/2011 F. CHAU & ASSOCIATES, LLC Frank Chau 130 WOODBURY ROAD WOODBURY, NY 11797				
EXAMINER ALMEIDA, DEVINE E				
ART UNIT 2432		PAPER NUMBER		
NOTIFICATION DATE 12/12/2011		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mail@chauiplaw.com  
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**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/677,933

**Applicant(s)**

BOIVIE ET AL.

**Examiner**

DEVIN ALMEIDA

**Art Unit**

2432

***—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —***

THE REPLY FILED 31 October 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Devin Almeida/  
Examiner, Art Unit 2432

/Benjamin E Lanier/  
Primary Examiner, Art Unit 2432

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been fully considered but they are not persuasive. Abbondanzio teaches At step 606 the device determines to boot from either deployment server or customer boot server. The booting of the device is done at step 609 after the boot code image is authenticated at step 608.

Applicant's arguments have been fully considered but they are not persuasive. Sudia in view of Abbondanzio is not a improper combination. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to have used Sudia system of installing new or additional firmware code with Abbondanzio method of transmitting a sign boot code as a more secure way to transmit boot code. Therefore one would have been motivated to have Sudia system of installing new or additional firmware code with Abbondanzio method of transmitting a sign boot code.

Applicant's arguments with respect to Sudia in view of Abbondanzio have been fully considered but they are not persuasive. The combination teaches how to execute signed authorized code that embodies a boot process. Sudia paragraph 0249 teaches i.e. The third party could then develop, test, and approve replacement or additional firmware routines, sign them with the third party's private signature key, and attach its upgrade certificate from the manufacturer thereto ... upon receiving such an upgrade, the user would load both the signed code routines and the manufacturer's upgrade certificate into the device ... verify the third party's signature on the new code routines against the manufacturer's upgrade certificate.

Abbondanzio teaches that authorized code is authorized boot code including instructions for performing a boot process for a computer device comprising the processor (see paragraph 0036). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to have used Sudia system of installing new or additional firmware code with Abbondanzio method of transmitting a sign boot code as a more secure way to transmit boot code. Therefore one would have been motivated to have Sudia system of installing new or additional firmware code with Abbondanzio method of transmitting a sign boot code.

Applicant's arguments that Abbondanzio the boot code is executed on a network off the system that is booted have been fully considered but they are not persuasive. Figure 6 steps 607 - 609 teach the encrypted boot code image is transmitted to the appropriate server where it is authenticated and run. This is also taught in paragraphs 0058-0060 i.e. "If the received boot code image is authenticated, then server blade 110 may boot the received boot code image in step 609. That is, if the authentication parameter(s), e.g., public key, received by server blade 110 in step 605 decrypt the received encrypted boot code image, then server blade 110 may boot the received boot code image in step 609".